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101ST CONGRESS
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SENATE

REPORT
101-538

BACA LOCATION NO. 1 LAND ACQUISITION AND STUDY ACT OF 1990

OCTOBER 18 (legislative day OCTOBER 2), 1990.—Ordered to be printed

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Mr. JOHNSTON, from the Committee on Energy and Natural Resources, submitted the following

REPORT

[To accompany S. 2521]

The Committee on Energy and Natural Resources, to which was referred the bill (S. 2521) to exchange certain lands in the State of New Mexico and for other purposes, having considered the same, reports favorably thereon with an amendment and an amendment to the title and recommends that the bill as amended do pass.

The amendment is as follows:

1. Strike out all after the enacting clause and insert in lieu thereof the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Baca Location No. 1 Land Acquisition and Study Act of 1990".

SEC. 2. PURPOSES AND DEFINITIONS.

(a) PURPOSES.—The purposes of this Act are to—

(1) authorize the Secretary to acquire by purchase certain lands in the State of New Mexico to be added to the Santa Fe National Forest;

(2) compensate Dunigan Enterprises for costs incurred as a result of certain Federal actions; and

(3) provide for a study to determine possible Federal protection of certain lands in New Mexico known as "Baca Location No. 1".

(b) As used in this Act, the term—

(1) "Baca Location No. 1" means the land owned by Dunigan Enterprises located in the Jemez Mountains west of Los Alamos, New Mexico, in Sandoval and Rio Arriba counties and consisting of approximately 100,000 acres, as generally depicted on the map entitled "1510—Sante Fe NF—S. 2521 Cochiti Land Exchange Act" and dated October, 1990;

(2) "Dunigan Enterprises" means Dunigan Enterprises, Inc., a Texas corporation, and BL&C Co. and BL&C Co. No. 2, Texas Partnerships; and

(3) "Secretary" means the Secretary of Agriculture.

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SEC. 3. ACQUISITION.

(a) IN GENERAL.—The Secretary is authorized to acquire by purchase with donated or appropriated funds the lands described in subsection (b). Upon acquiring the lands, the Secretary shall include them within the Santa Fe National Forest and shall administer them accordingly.

(b) DESCRIPTION OF LANDS TO BE ACQUIRED.—The lands to be acquired pursuant to subsection (a) consist of two parcels totaling approximately 36 acres, and are more specifically described as follows:

(1) PARCEL 1.—Beginning at Mile Point No. 11 on the south boundary of Baca Location No. 1; thence westerly along the south boundary of Baca Location No. 1 to its intersection with the constructed centerline of Forest Development Road 133; thence on a continuation of the south boundary of Baca Location No. 1, 33 feet; thence on an approximate bearing of N. 26° E., about 720 feet as scaled from the Forest Service's topographic map of the area, to the south boundary of the easement for New Mexico State Highway No. 4; thence in an easterly direction along the State Highway easement to its intersection with the south boundary of Baca Location No. 1; thence westerly along the south boundary of Baca Location No. 1 to the point of beginning, being Mile Point No. 11, containing approximately 27 acres, and subject to confirmation by formal survey and acceptable legal description and record acreage.

(2) PARCEL 2.—Beginning at Mile Point No. 10 on the south boundary of Baca Location No. 1; thence in a westerly direction along the south boundary of Baca Location No. 1, 423 feet to a point on the west side of the East Fork of the Rio Jemez; thence N. 38° E., 660 feet; thence N. 86° E., 170 feet; thence S. 70° E., 364 feet to the south boundary of Baca Location No. 1 to the point of beginning, being Mile Point No. 10, containing approximately 9 acres, and subject to confirmation by formal survey and acceptable legal description and record acreage.

SEC. 4. COMPENSATION.

(a) IN GENERAL.—The Secretary of the Treasury is authorized and directed, subject to the provisions of subsection (b), to pay a direct payment to Dunigan Enterprises not to exceed $1,633,527 out of any money in the Treasury not otherwise appropriated to compensate Dunigan Enterprises for costs incurred as a result of certain Federal actions involving a land exchange between the United States and Dunigan Enterprises in 1966.

(b) CERTIFICATION.—(1) The Secretary of the Treasury may make the payment described in subsection (a), only after the Secretary, acting through the Inspector General of the United States Department of Agriculture certifies that—

(A) the sum accurately reflects the damages incurred by Dunigan Enterprises resulting from the 1966 land exchange in New Mexico between the United States and Dunigan Enterprises;

(B) Dunigan Enterprises has executed a release of all claims relating to the real property known as the "Cochiti Properties", approximately 2,456.14 acres as described in the quitclaim deed to the Baca Land and Cattle Company, et al., on September 25, 1966, as recorded in Volume 21, pages 361-363 of the Sandoval County, New Mexico records; and

(C) Dunigan Enterprises has executed with the Department of Justice an appropriate joint stipulation for entry of an order of dismissal, with prejudice, of the pending litigation between Dunigan Enterprises and the United States, entitled *Dunigan Enterprises, Inc. et al.* v. *United States,* No. 506-88L, United States Claim Court.

(2)(A) In making the verification pursuant to paragraph (1), the Secretary shall consider costs incurred by Dunigan Enterprises as a result of the 1966 land exchange between the United States and Dunigan Enterprises, including but not limited to foregone proceeds on sales contracts, and reasonable expenses for travel, telephone calls, legal services and other miscellaneous costs.

(B) If the Secretary determines pursuant to the certification requirement required in paragraph (1) that Dunigan Enterprises has incurred damages of less than $1,633,527, then Dunigan Enterprises shall be paid such lesser amount pursuant to subsection (a).

SEC. 5. LAND OWNERSHIP ADJUSTMENT STUDY.

(a) IN GENERAL.—(1) The Secretary is authorized and directed to conduct a study of Baca Location No. 1 to address—

(A) the scenic, geologic, recreational, timber, mineral, grazing, and other multiple use attributes of Baca Location No. 1; and

(B) options for Federal acquisition of Baca Location No. 1, in whole or part, by purchase, donation, exchange, or otherwise, including the estimated cost of each option.

(2) The Secretary shall complete the study within 2 full fiscal years after the date funds are made available for the study.

(b) COOPERATION.—(1) The Secretary shall prepare the study required by subsection (a) in cooperation with the owner of Baca Location No. 1, interested Indian tribes, the National Park Service, the United States Fish and Wildlife Service, and other interested parties.

(2) This Act shall not be construed to authorize entry upon Baca Location No. 1 by any person without the express permission of the landowner, and the Secretary shall make prior arrangements with the landowner for satisfactory access to Baca Location No. 1 for the purposes of the study.

(c) TRANSMITTAL OF STUDY.—Upon the completion of the study referred to in subsection (a), the Secretary shall transmit the results of such study, along with any legislative recommendations to the Committee on Energy and Natural Resources of the United States Senate and the Committees on Interior and Insular Affairs and Agriculture of the United States House of Representatives.

SEC. 6. TECHNICAL CORRECTION.

Section 110(a)(2) of the San Juan Basin Wilderness Protection Act of 1984, Public Law 98–603 (98 Stat. 3159) is hereby amended to read as follows:

"(2) The real property referred to in paragraph (1) is located in Lake Sumner State Park, in the State of New Mexico, and is more particularly described as follows:

"all portions of sections 28 and 33 in Township 5 North, Range 24 East, with an elevation of more than 4,280 feet above sea level. The acreage and legal description of such real property shall be determined by the Secretary, after consultation with Sumner Lake Corporation.".

SEC. 7. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act.

2. Amend the title so as to read:

A bill to authorize the Secretary of Agriculture to acquire and study certain lands in the State of New Mexico, and for other purposes.

PURPOSE OF THE MEASURE

The purposes of S. 2521, as ordered reported, are to authorize the Secretary of Agriculture to acquire approximately 36 acres of land in New Mexico for inclusion in the Santa Fe National Forest, to direct the Secretary of the Treasury to compensate the Dunigan Enterprises corporation for damages incurred as a result of a 1966 land exchange between the company and the United States, and to direct the Secretary of Agriculture to study the Baca Location No. 1 lands in New Mexico to determine options for Federal acquisition.

BACKGROUND AND NEED

In 1966, Dunigan Enterprises, Inc., a Texas-based corporation, entered into a land exchange at the request of the Forest Service, whereby Dunigan conveyed 970 acres for inclusion in the Santa Fe National Forest and received 2,456 acres of land located between Albuquerque and Santa Fe. The land received by Dunigan was part of the "La Majada" land grant. Dunigan received a quitclaim deed from the United States at the time of the conveyance.

In 1979, Dunigan sold 1,030 acres of the land it had received in the 1966 exchange to another corporation, Colony Materials, Inc. In 1982, the Pueblo of Santo Domingo claimed ownership of part of the land originally conveyed by the Forest Service to Dunigan, in-

cluding 208 acres of the parcel conveyed by Dunigan to Colony Materials. In 1982, Colony was notified by the Department of the Interior that the 208 acre parcel was in fact owned by the Santo Domingo Pueblo.

Dunigan filed suit in 1984 in Federal district court seeking to quiet title. The court ruled that because Dunigan did not file its claim within the 12-year statute of limitation period required under Federal law (28 U.S.C. 2409a(f)), Dunigan's suit was dismissed.

In 1986, Dunigan settled with Colony Materials and the Santo Domingo Pueblo, which allowed Colony to keep 960 acres of the original 1,030. In addition, Dunigan forgave approximately $400,000 of the original purchase price. Pursuant to its claim, the Santo Domingo Pueblo acquired approximately 500 acres of the La Majada grant. Dunigan kept 950 acres, and retained the right to sue the Federal Government. In August 1988, Dunigan filed suit against the United States, claiming damages of approximately $2 million.

S. 2521 would compensate Dunigan approximately $1.63 million for damages incurred as a result of the 1966 land exchange. In addition, the bill would authorize the Secretary of Agriculture to acquire approximately 36 acres of land owned by Dunigan for addition to the Santa Fe National Forest. The bill also directs the Secretary to study an approximately 100,000-acre area in New Mexico known as "Baca Location No. 1" to determine options for Federal acquisition.

Legislative History

S. 2521 was introduced by Senators Bingaman and Domenici on April 25, 1990. Companion legislation, H.R. 4630, introduced by Congressman Richardson, passed the House of Representatives on October 10, 1990. The Subcommittee on Public Lands, National Parks and Forests held a hearing on S. 2521 on July 27, 1990.

At the business meeting on September 26, 1990, the Senate Committee on Energy and Natural Resources ordered S. 2521, as amended, favorably reported.

Committee Recommendations and Tabulation of Votes

The Senate Committee on Energy and Natural Resources, in open business session on September 26, 1990, by a unanimous vote of a quorum present, recommends that the Senate pass S. 2521, if amended as described herein.

The roll call vote on reporting the measure was 18 yeas, 0 nays, and 1 present, as follows:

YEAS	NAYS	PRESENT
Mr. Johnston		Mr. Domenici
Mr. Bumpers		
Mr. Ford		
Mr. Bradley		
Mr. Bingaman*		
Mr. Wirth*		
Mr. Conrad		
Mr. Heflin*		

YEAS	NAYS	PRESENT
Mr. Rockefeller		
Mr. Akaka*		
Mr. McClure		
Mr. Hatfield*		
Mr. Wallop		
Mr. Murkowski		
Mr. Nickles*		
Mr. Burns		
Mr. Garn*		
Mr. McConnell*		

* Indicates voted by proxy.

Committee Amendment

During the consideration of S. 2521, the Committee adopted an amendment in the nature of a substitute. As introduced, S. 2521 authorized a land exchange between Dunigan Enterprises and the United States, provided for a direct payment of cash to Dunigan in compensation for damages resulting from the 1966 land exchange, and authorized a study of the Baca Location No. 1 property. The Committee amendment deletes the land exchange provisions, but retains the cash payment to Dunigan and study of the Baca Location No. 1. The amendment also makes numerous technical, clarifying and conforming changes. The amendment is described in detail in the Section-by-Section Analysis below.

The Committee also adopted an amendment to the title.

Section-by-Section Analysis

Section 1 entitles the Act, the "Baca Location No. 1 Land Acquisition and Study Act of 1990."

Section 2 sets forth the purposes of the Act and defines certain terms used in the Act.

Section 3(a) authorizes the Secretary of Agriculture (the "Secretary") to purchase approximately 36 acres in New Mexico for addition to the Santa Fe National Forest.

Subsection (b) defines the lands to be acquired. The two parcels, which are owned by Dunigan Enterprises, Inc. ("Dunigan"), are located near the southern boundary of the Baca Location No. 1 property.

Section 4(a) authorizes and directs the Secretary of the Treasury, subject to the provisions of subsection (b), to pay a sum of money not to exceed $1,633,527 to Dunigan, to compensate Dunigan for damages incurred as a result of a 1966 land exchange with the Forest Service.

Subsection (b) provides that the Secretary of the Treasury may only make the payment to Dunigan after the Inspector General of the Department of Agriculture certifies that the sum to be paid accurately reflects the damages incurred by Dunigan as a result of the 1966 land exchange. The Inspector General must also certify that Dunigan has executed a release of all claims relating to the 2,456 acre parcel known as the "Cochiti properties," and that Dunigan has executed a joint stipulation with the Department of Justice

of an order of dismissal, with prejudice, of the pending litigation between the United States and Dunigan.

Subparagraph (2)(A) of the subsection sets forth the criteria the Inspector General is to consider in making the determination whether the amount to be paid to Dunigan is appropriate.

Subparagraph (2)(B) of the subsection states that if a lower sum is established as the correct amount of compensation pursuant to the certification process, then Dunigan is to be paid the lesser amount.

Section 5(a) authorizes and directs the Secretary to conduct a study of the approximately 100,000-acre Baca Location No. 1 property to assess the various resources located on the property and to address options for Federal acquisition of the property, in whole or part, by purchase, donation, exchange, or otherwise. The study is to be completed within 2 full fiscal years after the date funds are made available for the study.

Subsection (b) provides that the Secretary is to prepare the study in cooperation with the owner of Baca Location No. 1 (currently owned by Dunigan), interested Indian tribes, the National Park Service, the U.S. Fish and Wildlife Service, and other interested parties. The subsection clarifies that the Act does not provide any authorized entry on to the property except with the express permission of the landowner.

Subsection (c) states that upon the completion of the study, the Secretary is to transmit the results of the study, along with any legislative recommendations, to the Senate Committee on Energy and Natural Resources and the House Committee on Interior and Insular Affairs.

Section 6 makes a technical correction to the San Juan Basin Wilderness Protection Act of 1984. The amendment corrects the legal description of land in New Mexico that the Secretary of the Interior is authorized to convey to the Sumner Lake Corporation of the State of New Mexico.

Section 7 authorizes the appropriation of such sums as may be necessary to carry out the provisions of this Act.

Cost and Budgetary Consideration

The Congressional Budget Office estimate of the costs of this measure has been requested but was not received at the time the report was filed. When the report is available, the Chairman will request it to be printed in the Congressional Record for the advice of the Senate.

Regulatory Impact Evaluation

In compliance with paragraph 11(b) of rule XXVI of the Standing Rules of the Senate, the Committee makes the following evaluation of the regulatory impact which would be incurred in carrying out S. 2521. The bill is not a regulatory measure in the sense of imposing Government-established standards or significant economic responsibilities on private individuals and businesses.

No personal information would be collected in administering the program. Therefore, there would be no impact on personal privacy.

Little, if any, additional paperwork would result from the enactment of S. 2521, as ordered reported.

Executive Communications

On July 17, 1990, the Committee on Energy and Natural Resources requested legislative reports from the Department of Agriculture and the Office of Management and Budget setting forth executive views on S. 2521. On July 24, 1990, the Committee also requested reports from the Department of Justice. These reports had not been received at the time the report on S. 2521 was filed. When the reports become available, the Chairman will request that they be printed in the Congressional Record for the advice of the Senate. The testimony provided by the Forest Service at the Subcommittee hearing follows:

Statement of Jeff M. Sirmon, Deputy Chief, Forest Service, U.S. Department of Agriculture

Mr. Chairman and members of the Subcommittee: Thank you for the opportunity to offer the Department of Agriculture's views on S. 2521, the "Cochiti Land Exchange Act of 1990," and S. 2527, the "Enchanted National Forest Information and Education Study Act of 1990."

The Department of Agriculture supports the purposes of S. 2521, but we suggest some technical and clarifying amendents. We support enactment of S. 2527.

While both bills deal with National Forest management in New Mexico, the objectives of each bill are different. Therefore, I will briefly address each bill separately and then will be happy to answer questions.

S. 2521, the "Cochiti Land Exchange Act of 1990"

S. 2521 provides for a land exchange in which the United States would receive 36 acres of private land owned by Dunigan Enterprises in exchange for 1,700 acres of National Forest lands in Sandoval County, New Mexico. In addition, the United States would make a cash payment of approximately $1.1 million to Dunigan Enterprises. The lands received by the United States would be added to the Santa Fe National Forest.

The bill also provides for a cooperative land ownership adjustment study with the owners of Baca Location No. 1 (originally a large Spanish land grant) to address its multiple use attributes and to address options for its possible acquisition by the United States.

Baca Location No. 1 includes approximately 100,000 acres located within, and virtually surrounded by, the Santa Fe National Forest. It was the desire of Mr. Dunigan, now deceased, that the land grant be transferred to public ownership, rather than remain in private ownership and be subject to development. The area is very scenic and has outstanding wildlife and public recreation values. Therefore, we support the cooperative land ownership study. We suggest, however, that Section 7 be amended to

remove part (c), which states that the study will not require an environmental impact statement. The NEPA analysis required to develop an action proposal is best determined after review of the pertinent issues, environmental impacts and public input.

S. 2521 would also resolve a land title problem stemming from a 1966 land exchange between Dunigan Enterprises and the United States. Details regarding the title problem are included in the Supplemental Statement attached to my written statement.

As currently described in S 2521, the land exchange is unequal in appraised value in favor of Dunigan Enterprises. The difference in the appraised value, along with the cash payment provided, would allow Dunigan Enterprises to recover its costs from a clouded title associated with the 1966 exchange. The conveyance of certain National Forest land is part of the compensation package proposed by S. 2521.

We agree that Dunigan Enterprises should be reasonably compensated for its costs. However, we feel that the compensation should be provided entirely in a cash payment. Compensation which provides National Forest land in lieu of cash would set an undesirable precedent which could lead to National Forest lands being used as compensation in future claims against the United States.

Therefore, we suggest that the legislation be amended to provided compensation to Dunigan Enterprises entirely in cash (rather than partially in cash and partially in land). This would increase the cash payment to Dunigan Enterprises provided in Section 4 of S. 2521 and would decrease the National Forest land involved in the land exchange described in Sections 2 and 3. If these suggested revisions are acceptable, the Forest Service will provide new land description and other pertinent information after discussions with representatives of Dunigan Enterprises.

We estimate that enactment of S. 2521 would result in a Federal cost of $1.3 million. Most of this cost ($1.1 million) is the cash payment to Dunigan Enterprises. The remaining $200,000 would be needed by the Forest Service over the FY 91-93 period to complete the land ownership adjustment study. We have not validated the cash compensation of $1.1 million in Section 4, so can offer no opinion on the amount. If the $1.1 million compensation figure is correct, the total cost of the bill, after including the suggested amendments, is estimated at $1.9 million. In the amended bill, the cost of the landownership adjustment study would remain at $200,000, but the cash compensation cost would increase.

This completes my comments on S. 2521.

S. 2527, THE "ENCHANTED NATIONAL FOREST INFORMATION AND EDUCATION STUDY ACT OF 1990"

We support this bill which would significantly strengthen and expand environmental education in New Mexico. The diverse lands of the five National Forests in New Mexico would provide an ideal learning environment for residents and visitors.

In the past 20 years, the American public has taken a more active role in understanding their environment and the problems of using and protecting natural resources. During that period, the Forest Service has been a leader in developing environmental education programs for schools and communities. We believe these programs have been important in developing individual understanding of resource issues. They have also involved people in problem-solving strategies which value resources and serve people.

We agree that the Federal Government should take a more active role in supporting and encouraging environmental education programs and activities. In October 1989, responding to recommendations to President Bush from a coalition of environmental groups and, at the urging of the National Association of State Foresters, the Forest Service began to look at ways to further strengthen our environmental education program which focuses on forestry resources education. We recognize the need to devote greater resources to our environmental education programs, some of which were pioneering efforts in the field. We have met recently with the National Association of State Foresters, Project Learning Tree, and the National Arbor Day Foundation to consider ways of forging stronger partnerships in environmental education. The Chief has established a National Resource Education Task Force to direct further strengthening of Forest Service environmental education.

This bill provides the opportunity to strengthen and expand our environmental education program in New Mexico. That will, in turn, strengthen our overall National program. With over 9 million acres of National Forest System lands in New Mexico, many opportunities are available to enhance environmental education. There are also excellent opportunities to involve State and other Federal agencies who administer lands and resources in New Mexico in this effort.

S. 2527 provides that the study examine the feasibility of locating an environmental education center in New Mexico, with Albuquerque as one of the alternative locations. Albuquerque is ideally located in the center of the State and region. As the State's largest metropolitan area, it contains over one-third of the state's population. It is particularly important to reach this large group of urban citizens and help them learn about resource issues of local, regional, and national significance. An environmental education center in this area could provide focus to the regional environmental education program and could provide

materials and service to schools, colleges, and community organizations. The Sandia Mountains of the Cibola National Forest rise immediately above the city and provide opportunities for learning in an outdoor environment in close proximity to the city. In addition, four other National Forests and a National Grassland are within a few hours drive of the city. If S. 2527 is enacted, the study will explore the possibilities for developing a coordinated environmental education program for Albuquerque, and the entire region.

This concludes my testimony. I will be pleased to answer any questions you may have.

USDA Supplemental Statement, S. 2521, "Cochiti Land Exchange Act of 1990"

In 1966, the United States received 969 acres of the Baca Location No. 1 from Dunigan Enterprises in exchange for 2,456 acres of National Forest land adjacent to the Santa Domingo Pueblo. The boundary of the parcel transferred from the United States to Dunigan Enterprises was not fenced on the property line adjacent to the Pueblo, rather it was fenced to avoid a large arroyo (isolating approximately 200 acres from the remainder of the tract). Prior to finalizing the exchange, the Santa Fe National Forest Supervisor properly notified the Santa Domingo Pueblo that the exchange was imminent and that the new owner would likely fence the property line. No response was received from the Pueblo, and the exchange was completed.

Several years later, Dunigan Enterprises leased a portion of this property to Colony Minerals Company, who fenced the boundary with the Pueblo. This action was contested by the Pueblo, because they had used the unfenced land for grazing and they claimed the land. The Pueblo tore down the fence and threatened Colony Minerals with trespass action if they occuped the tract. The Department of Interior (Bureau of Indian Affairs) recommended that the Department of Justice defend the Indian claim.

Colony Minerals Company filed suit against Dunigan Enterprises because of the faulty title. This required Dunigan Enterprises to file a quiet title action against the United States to clear the title. The quiet title action was dismissed, because the suit was not filed within the statute of limitations (12 years) and the merits of the Native American claim were never determined.

As a result, Dunigan Enterprises was compelled to settle claims with the Pueblo and clear the title. The negotiated settlement gave the Santa Domingo Pueblo title to 557 acres of the original 2,456-acre parcel. In return, the Pueblo renounced claims to the remaining 1,899 acres. Dunigan Enterprises also paid substantial court costs and legal fees.

The costs incurred for the land which was lost, the court costs, and the legal fees provide the basis for the compen-

sation in H.R. 4630. Since the statute of limitations has expired, legislation is the only remedy for Dunigan Enterprises to recover its costs.

CHANGES IN EXISTING LAW

In compliance with paragraph 12 of rule XXVI of the Standing Rules of the Senate, changes in existing law made by the bill S. 2521, as ordered reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

PUBLIC LAW 98-603

AN ACT entitled: "The San Juan Basin Wilderness Protection Act of 1984"

Be it enacted by the Senate and House of Representatives of the United States of American in Congress assembled,

TITLE I—SAN JUAN BASIN

SEC. 101. This Act may be cited as the "San Juan Basin Wilderness Act of 1984".

* * * * * * *

SEC. 110. (a)(1) The Secretary of the Interior (hereafter in this section referred to as the "Secretary") may convey to Sumner Lake Corporation of the State of New Mexico all right, title, and interest of the United States in and to the real property described in paragraph (2), but such conveyance to such corporation may be made only in the event that the State of New Mexico has given a written release to the United States Government from the State's lease of such property.

[(2) The real property referred to in paragraph (1) is located in Lake Sumner State Park, in the State of New Mexico, and is more particularly described as follows: all portions of sections 28 and 34 in township 5 north, range 24 east, that are more than 4,280 feet above sea level. The acreage and legal description of such real property shall be determined by the Secretary after consulting with Sumner Lake Corporation.]

(2) The real property referred to in paragraph (1) is located in Lake Sumner State Park, in the State of New Mexico, and is more particularly described as follows:

all portions of sections 28 and 34 in Township 5 North, Range 24 East, with an elevation of more than 4,280 feet above sea level. The acreage and legal description of such real property shall be determined by the Secretary, after consulting with Sumner Lake Corporation.

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